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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 9th February 2009

No. 1238—li/1(BH)-18/2000-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 27th January 2009 in Industrial Dispute Case No. 220 of 2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the Industrial Dispute between the Management of Assistant Soil Conservation Officer, Baripada and its workman Shri Gopal Mohanta was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 220 OF 2008

Dated the 27th January 2009

Present :

Shri P. C. MISHRA, o.s.j.s. (Sr. Branch),
Presiding Officer, Industrial Tribunal,
Bhubaneswar.

Between :

The Assistant Soil Conservation Officer, .. First Party—Management
Baripada, Mayurbhanj.

And

Shri Gopal Mohanta, .. Second Party—Workman
S/o Late Sunaram Mohanta,
At Nuagaon, P.O. Balidiha,
Via Samkhunta, Mayurbhanj.

Appearances :

None .. For the First Party—Management

Shri Gopal Mohanta .. For the Second Party—Workman himself

AWARD

Originally, the Government of Orissa in the Labour & Employment Department had referred the following dispute for adjudication by the Presiding Officer, Labour Court, Bhubaneswar vide its Order No. 9070—li/1(BH)-18/2000-LE., dated the 5th July 2000 but subsequently it transferred the dispute to be adjudicated by the Presiding Officer, Industrial Tribunal, Bhubaneswar vide its Order No. 4138—li/21-32/2007-LE., dated the 4th April 2008.

“Whether the termination of services of Shri Gopal Mohanta, w.e.f., 23rd June 1998 by the Assistant Soil Conservation Officer, Baripada is legal and/or justified ? If not , to what relief Shri Mohanta is entitled to ? ”

2. Briefly stated, the case of the workman is that he was employed as a Watchman under the management and worked as such from 1981 till the end of December, 1998. He was getting Rs. 150 per month initially which was subsequently raised to Rs. 750 per month at the time of his termination of service. He alleges that in spite of his rendering 18 years continuous service under the management, his services were terminated without complying with the mandatory provisions of the Industrial Disputes Act. Further it is pleaded that during his continuance in job, neither the workman was charge sheeted for any misconduct nor any enquiry was ever contemplated against him. His termination of service being contrary to the provisions of the Industrial Disputes Act, he has prayed for his reinstatement in service with full back wages.

3. Disputing the averments of the workman, the management filed its written statement stating therein *inter alia* that the workman was engaged on daily wage basis depending upon availability of work. It is stated that the workman was engaged intermittently from the 7th July 1982 to 30th September 1986 and thereafter he left the service voluntarily. Again on his approach the workman was engaged on daily wage basis as a Casual Labourer from the 1st June 1995 till the 15th July 1995; from the 1st January 1996 to the 25th June 1996 and lastly from the 1st June 1998 to the 13th December 1998 and thereafter he left the work on his own accord which can be termed as voluntary abandonment of job. For the aforesaid reason, it is pleaded, there was no necessity for the management to comply with the provisions of the Industrial Disputes Act and moreover for framing any charge sheet or conducting any enquiry against the workman. In the circumstances, the management has prayed to answer the reference, in the negative as against the workman.

4. In the hearing of the dispute, the management neither appeared nor took any step and as such, it was set *ex parte* vide Order No. 43, dated the 29th December 2008. In the *ex parte* hearing, the workman filed his affidavit evidence and proved four documents which have been marked as Exts. 1 to 4.

5. In his evidence on affidavit the workman has stated that he had rendered continuous and uninterrupted service under the management from June, 1981 till he was refused employment w.e.f. the 23rd June 1998. He stated that he was getting Rs. 750 per month as his wages by the time of his refusal of employment. He specifically alleged that in spite of his rendering continuous

& uninterrupted service under management for a substantial period, he was neither given any notice pay and retrenchment compensation while denying him employment w.e.f. 23rd June 1998. According to him, such action of the management amounts to termination of his service and consequently falls within the definition of retrenchment Exts. 1 to 3 are the letters of the management showing engagement of the workman in different spells. Ext. 4 is the copy of the complaint petition submitted before the D.L.O. on the 4th March 1999.

6. In view of the uncontroverted evidence of the workman that he had rendered continuous and uninterrupted service under the management during the relevant period, it was obligatory for the management to comply with the provisions of Section 25-F of the Industrial Disputes Act before effecting termination of his service w.e.f. the 23rd June 1998 and non-compliance of the same renders its action to be illegal and unjustified.

7. In the result, therefore, the action of the management is held to be illegal and unjustified and accordingly the workman is held entitled to reinstatement in service with 25% back wages.

The reference is answered accordingly.

Dictated and corrected by me.

P. C. MISHRA
27-1-2009
Presiding Officer
Industrial Tribunal
Bhubaneswar

P. C. MISHRA
27-1-2009
Presiding Officer
Industrial Tribunal
Bhubaneswar

By order of the Governor
K. C. BASKE
Under-Secretary to Government